



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,565	11/24/2003	Robert D. Piwko JR.	0621.0449C	1886
27896	7590	01/11/2006	EXAMINER	
EDEL, SHAPIRO & FINNAN, LLC 1901 RESEARCH BOULEVARD SUITE 400 ROCKVILLE, MD 20850			ABRAHAM, TANIA	
			ART UNIT	PAPER NUMBER
			3636	

DATE MAILED: 01/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/718,565	Applicant(s) PIWKO ET AL.	
	Examiner Tania Abraham	Art Unit 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7, 9-12, 14-15, 17-20 is/are rejected.
- 7) ☒ Claim(s) 6, 8, 13 and 16 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

Claim Objections

1. Claims 1-2 are objected to because of the following informalities: claims 1 and 2 contain inconsistent terminology.

Claim 1, line 14 should read "on the upper frame and base portion ...".

Claim 2, line 1 should read, "... wherein the medial portion is angled ...".

Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claim 1 rejected under 35 U.S.C. 102(e) as being anticipated by Sonner et al. [US 6,616,237 B2]. Sonner (fig. 1-2, 10) discloses structure as claimed, including a bouncer seat 10 having an upper frame 14, lower frame 12 and lower seat frame 18. Bouncer seat 10 also has soft goods 24 disposed on the upper frame 14 and lower seat frame 18, and toy bar 26 for mounting an infant entertainment, educational and/or pacifying device. It is apparent from figure 2 that Sonner's soft goods 24 is deep enough to receive an infant.
4. Claims 11, 14 and 17 are rejected under 35 U.S.C. 102(e) as being anticipated by Fitzgerald et al. [US 6,759,961 B2]. Fitzgerald (fig. 3) discloses

Art Unit: 3636

structure as claimed, including a power switch 312, a mode selector 382 and a mode indicator 317. Mode selector 382 is a switch that slides between two different modes of sensory output (P2 and P3), wherein the sensory output is auditory. Mode indicator 317 has one appearance, when mode selector 382 is in a first position located at P2, which indicates and corresponds to the first sensory output mode; and another appearance, when mode selector 382 is slid to a second position located at P3, which indicates and corresponds to the second sensory output mode.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any

Art Unit: 3636

inventions covered therein were made absent any evidence to the contrary.

Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 2-5, 7, 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sonner et al. in view of Fitzgerald et al. Sonner discloses structure previously discussed but fails to specify the features of a toy mounted on toy bar 26 of his bouncer seat 10. Fitzgerald (fig. 3) teaches an entertainment/soothing unit 300 that can be implemented on a variety of infant structures such as Sonner's bouncer seat, that provides stimulating sensory output. Fitzgerald discloses structure as claimed, including a power switch 312, a mode selector 382 and a mode indicator 317. Mode selector 382 is a switch that slides between two different modes of sensory output (P2 and P3), wherein the sensory output is auditory. Mode indicator 317 has one appearance, when mode selector 382 is in a first position located at P2, which indicates and corresponds to the first sensory output mode; and another appearance, when mode selector 382 is slid to a second position located at P3, which indicates and corresponds to the second sensory output mode. Therefore, it would have obvious to one having ordinary skill in the art at the time of invention to modify the bouncer seat of Sonner et al. to include the entertainment unit previously described in view of the teachings of Fitzgerald et al. in order to enhance the

Art Unit: 3636

comfort and entertainment of an infant. Regarding claim 2, note that having the upper portion of the upper frame angled rearward with respect to the side portions is considered a design choice which is not patentable over Sonner's back supporting frame 16.

9. Claims 12 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fitzgerald et al. in view of Joja. Fitzgerald discloses structure previously mentioned, but does not teach a rotating indicator with multiple icons that are alternatively displayed according to the selection of a corresponding mode of sensory output. However, Joja (fig. 1) teaches a rotating visual mode indicator 7 with icons corresponding to the different modes of operation. It would have been obvious to one having ordinary skill in the art at the time of invention to modify Fitzgerald to have a mode indicator with icons thereon to further indicate modes of operation, in view of the teaching of Joja in order to add to the comfort and entertainment of an infant.

10. Claims 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fitzgerald in view of Sonner et al. Fitzgerald discloses structure previously discussed including being attachable to a variety of infant structures (see Fitzgerald, col. 8 – lines 25-31), but fails to specify the features of such infant structures. Sonner (fig. 1, 2) teaches a bouncer seat 10 having an upper frame 14, lower frame 12 and lower seat frame 18. Bouncer seat 10 also has soft goods 24 disposed on the upper frame 14 and lower seat frame 18, and toy bar 26 for mounting an infant entertainment, educational and/or pacifying device. Therefore, it would have been obvious to one having ordinary skill at the time of

Art Unit: 3636

invention to modify Fitzgerald to be attached to an infant bouncer seat, in view of the teaching of Sonner in order to enhance the comfort and entertainment of an infant.

Allowable Subject Matter

11. Claims 6, 8, 13 and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion


12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US-6,739,649-B2 and US-6,116,983-A also show teachings of the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tania Abraham whose telephone number is 571-272-2635. The examiner can normally be reached on Monday - Friday, 8am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on 571-272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3636

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



ANTHONY D. BARFIELD
PRIMARY EXAMINER

TA